

Doc Code: AP.PRE.REQ

PTO/SB/33 (12-08)

Approved for use through 01/31/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 555255-012288									
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>March 5, 2009</u></p> <p>Signature <u><i>Debra Pejeau</i></u></p> <p>Typed or printed name <u>Debra Pejeau</u></p>		Application Number 10/004,001	Filed 01-Nov-2001								
		First Named Inventor Wen Zhao									
		Art Unit 2618	Examiner Pham, Tuan								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td>X <u><i>Mitchell Rose</i></u> Signature</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td><u>Mitchell Rose</u> Typed or printed name</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>47,906</u></td><td><u>216-586-7094</u> Telephone number</td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td>X <u>3/5/09</u> Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>				<input type="checkbox"/> applicant/inventor.	X <u><i>Mitchell Rose</i></u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Mitchell Rose</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>47,906</u>	<u>216-586-7094</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	X <u>3/5/09</u> Date
<input type="checkbox"/> applicant/inventor.	X <u><i>Mitchell Rose</i></u> Signature										
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Mitchell Rose</u> Typed or printed name										
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>47,906</u>	<u>216-586-7094</u> Telephone number										
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	X <u>3/5/09</u> Date										

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Zhao et al
Title : Multifunction Keyboard for a Mobile . . .
Application No. : 10/004,001
Filing Date : 11/1/01
Confirmation No. : 7436
Examiner : Tuan Pham
Group Art Unit : 2618
Attorney Docket : 555255012288

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REASONS FOR PRE-APPEAL BRIEF REVIEW

Prior to filing an Appeal Brief, Applicants request review of the final rejection mailed 1/5/09, due to the final rejection having clear errors, and thus failing to make a *prima facie* case of unpatentability.

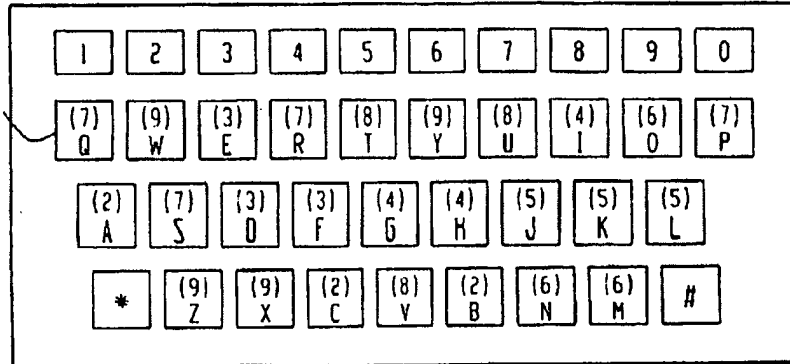
Any fee due for this submission should be charged to the Jones Day Deposit Account No. 501432, reference 555255012288.

REMARKS

INDEPENDENT CLAIM 42

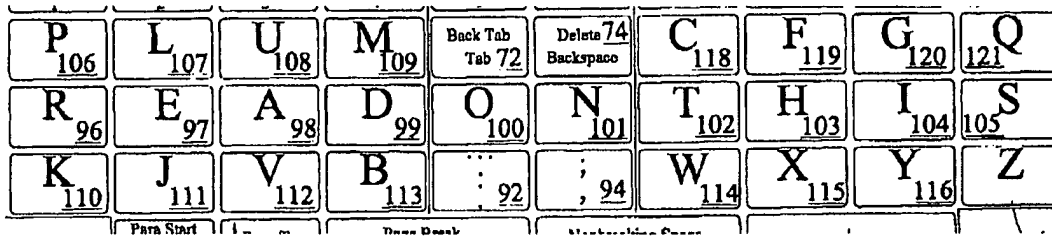
Claim 42 recites a keyboard having 26 letter keys that are each labeled with a number. The number is 2-9 respectively for keys A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z. This is exemplified in the application by Fig. 1 (below):

APPLICATION FIG. 1



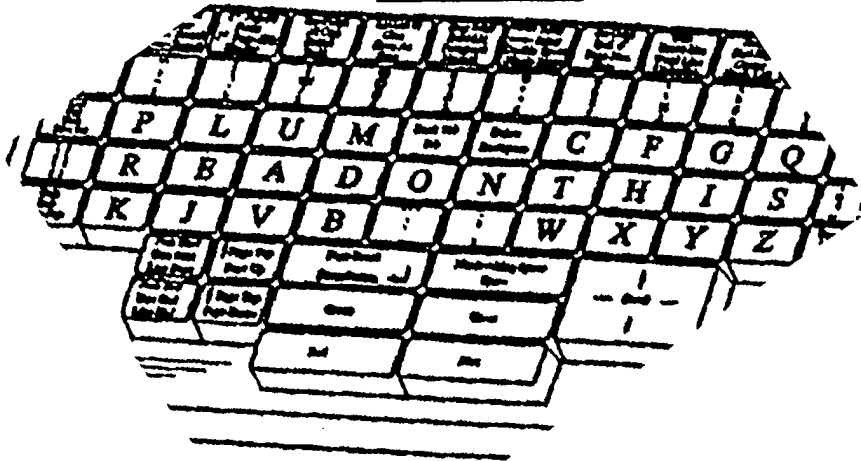
Claim 42 is rejected over Nokia in view of Woods. The Examiner acknowledges that Nokia fails to teach 26 letter keys labeled with a number, but contends this is taught by Woods Fig. 2 (reproduced in-part below) showing letter keys with numbers 96-121.

WOODS FIG. 2



The Examiner's contention is incorrect, because the numbers 96-121 in Woods' Fig. 2 are merely patent reference numerals that appear on the patent drawing for the purpose of referencing the keys in the specification. Woods does not suggest these numbers be labeled on an actual keyboard as claimed. This is indicated by the numbers 96-121 not appearing in the perspective view of Woods' keyboard (Fig. 1 reproduced in-part below).

WOODS FIG. 1



This is further indicated by the numbers 96-121 in Woods' Fig. 2 being **underlined**, in accordance with the rule in 37 CFR 1.84(q) that: "Such a reference character must be **underlined** to make it clear that a lead line has not been left out by mistake."

This is further indicated by the following section of Woods' specification highlighting "96-121" in bold in accordance with the standard format for patent reference numerals.

Arranged throughout Row 68, Row 78, and Row 84 are the twenty-six letter keys of the English language. When a letter key 96-121 is pressed alone, a lower case letter character is inserted. When a letter key 96-121 is pressed
30 along with a shift key 10 or 12, a capital letter character is
(Woods, col. 10, lines 26-30)

This is yet further indicated by Woods' specification not suggesting anywhere that numbers 96-121 be printed on an actual letter key nor providing any reason why they would be.

Therefore, it is clear that while Woods shows patent reference numerals labeled on a drawing of letter keys, he does not suggest the limitation of numbers labeled on actual letter keys as claimed.

Even according to the Examiner's mistaken interpretation of Woods' numbers, Woods still would not teach the claim limitation it was cited for. That is because the claim 42 limitation at issue limits the numbers to the range 2-9, whereas Woods' numbers are in the range 96-121. Additionally, claim 42 specifies "the number being 2-9 respectively for keys labeled with A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z" (such as the same number "2" labeled on three different letter keys A, B and C), which Woods does not disclose.

Therefore, the rejection is clearly in error on several grounds and should be withdrawn.

INDEPENDENT CLAIM 47

In claim 47, each of the keyboard's 26 letter keys is assigned a number, as exemplified in the application by Fig. 1 (above).

Claim 47, like 42, is rejected over Nokia in view of Woods. The Examiner acknowledges that Nokia fails to teach the claimed 26 letter keys each assigned a number, but contends this is taught by Woods' Fig. 2 (reproduced in-part above). As explained above (regarding claim 42), the Examiner's contention is incorrect, because the numbers in Woods' Fig. 2 are merely patent reference numerals that are assigned to a drawing of keys and not to actual keys as claimed. Therefore, claim 47 is patentable over the cited art.

INDEPENDENT CLAIM 56

Claim 56, like claim 42, recites a keyboard with 26 letter keys that are each labeled with a number, the number being 2-9 respectively for keys A-C, D-F, G-I, J-L, M-O, P-S, T-V and W-Z. As with claim 42, the rejection of claim 56 is based on the Examiner's mistaken contention that this is taught by Woods. However, as explained above regarding claim 42, Woods does not teach letter keys labeled with numbers as claimed, much less numbers in the range 2-9 as claimed, and much less with the **same** number labeled on **several different** letter keys. Therefore, the rejection of claim 56 is in error on several grounds and should be withdrawn.

DEPENDENT CLAIMS 44-46, 48-50 AND 57-58

The remaining claims all depend from base claims that are explained above to be patentable over the prior art. The limitations that the dependent claims add to the base claims distinguish them further from the prior art.

The application is therefore now in condition for allowance.

Respectfully submitted,

Mitchell Rose

Mitchell Rose (Reg. No. 47,906)

JONES DAY

901 Lakeside Ave.

Cleveland, OH 44114

(216)586-7094

3/5/09